

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

19

DECISION

TOPIC

Final Rule - Chapter 64 --- Wastewater Construction and Operation Permits

The Commission is asked to approve the attached Adopted and Filed Notice to amend Chapter 64: Wastewater Construction and Operation Permits of the Iowa Administrative Code (IAC).

These proposed rules increase the fees for authorizations issued under the general permits for storm water discharges. The fee increases are necessary as the demands upon the storm water fees have exceeded the amount collected for the last several years. Also, the requirement that coverage provided by the multi-year (3, 4 and 5 year) fees expires no later than the general permit under which the coverage was issued is being removed to provide consistency with the amended requirements in the recently re-issued general permits.

The following changes are proposed:

- Increase permit fees according to the table below.
- Allow authorization coverage to extend past the expiration date of the general permits.

Permit authorization duration	Current fee	Proposed fee
1 year	\$150.00	\$175.00
3 years	\$300.00	\$350.00
4 years	\$450.00	\$525.00
5 years	\$600.00	\$700.00

Charles C. Corell, Bureau Chief
Water Quality Bureau
Environmental Services Division

June 10, 2008

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.105(3), the Environmental Protection Commission hereby adopts amendments to Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Amendments to Chapter 64 increase the fees for authorizations issued under the general permits for storm water discharges. The fee increases are necessary as the demands upon the storm water fees have exceeded the amount collected for the last several years. Also, the requirement that coverage provided by the multi-year (3, 4 and 5 year) fees expires no later than the general permit under which the coverage was issued is being removed to provide consistency with the amended requirements in the recently re-issued general permits.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on January 2, 2008 as ARC 6521B. Comments regarding these amendments were received during the comment period and at the public hearing on January 24, 2008. The comments and the Department’s response are contained within the responsiveness summary. There are no changes from the Notice of Intended Action resulting from the public comments.

These amendments become effective August 1, 2008.

The following amendments are adopted.

ITEM1. Amend subparagraphs 64.16(3)a.(1), 64.16(3)a.(2) and 64.16(3)a.(3) as follows:

64.16(3)a. For coverage under the NPDES general permits, the following fees apply:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee.....~~\$150~~175 (per year)

or

Five-year Permit Fee.....~~\$600~~700

Four-year Permit Fee.....~~\$450~~525

Three-year Permit Fee.....~~\$300~~350

~~(Coverage provided by the five year, four year, and three year permit fees expires no later than the expiration date of the general permit. Maximum coverage is five years, four years, and three years, respectively.)~~ All fees are to be submitted with the Notice of Intent for coverage under the general permit.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES

General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

Date

Rich Leopold, Director

RESPONSIVENESS SUMMARY

Introduction:

This is a summary of the comments received in response to proposed changes to chapter 567-64 of the Iowa Administrative Code which increase the fees for storm water general permit authorizations. The Notice of Intended Action (ARC 6521B) was published on January 2, 2008.

The amendments as proposed in the Notice would:

1. Increase the fees for general permit authorizations issued under storm water General Permit nos. 1, 2 and 3 by 16.7%. Specifically, the increases are from \$150.00 to \$175.00 for a one-year authorization, from \$300.00 to \$350.00 for a three-year authorization, \$450.00 to \$525.00 for a four-year authorization and \$600.00 to \$700.00 for a five-year authorization.
2. These amendments eliminate the requirement that the coverage provided by the multi-year permit fees expires no later than the General Permit.

One public hearing was held in Des Moines on January 24, 2008. Written comments were received through January 24, 2008.

Two entities provided written comments on the proposed changes whose names are listed at the end of this summary. The responsiveness summary attempts to address all of the comments received. The comments received are addressed below in terms of the issues involved. The Department did not list every comment received, but rather merged common comments into major issue areas. Only one general comment relevant to the current rulemaking was submitted.

The relevant comments were sorted into common topics and the Department's response is written below each topic section or individual question in the miscellaneous section.

Comment:

The Department does not have the authority to charge more in fees than is necessary to defray the costs of the storm water program.

Department's response:

- The Department is using some of the fees collected from storm water applications to fund other programs. However, as this is being done with legislative approval, the Department has the authority to divert funds to these programs. The remaining portion of the fees collected is not now sufficient to defray the costs of administering the storm water program.

Comments not relevant to the current rulemaking:

- Work with stakeholders to develop and implement program improvements that would benefit Iowans.
- Add the costs for the three proposed IDNR staff for storm water enforcement to the new fee structure, discussed herein, and explain the fiscal impact clearly and transparently to stakeholders.
- The budget data shows over \$1.5 million dollars went into the flood plain permitting and helping back log over 9 years. However, nine years later, the backlog remains in the flood plain program.

Several of our members question why Iowa's storm water permit fees continue to fund this catch-up program.

- Looking beyond the budget data, the DNR has an opportunity to improve technology, instead of raising fees.
- Finally, our preliminary budget analysis indicates that with fiscal discipline and efficiency measures, such as the online permitting system, storm water fees could be lowered, not raised.

These comments refer to issues not directly related to the current rulemaking. Those interested in initiating rulemaking may file a petition with the Department as described in chapter 561-5 of the Iowa Administrative Code.

Recommendation:

It is recommended that the rules proposed in the original notice of intended action be adopted without changes.

The following is a list of the individuals and organizations that commented on the proposed rule changes during the public comment period.

MidAmerican Energy – Jeff Myrom
Association of Business and Industry – Nicole Molt